

## REMARKS

This Amendment and Response to Office Action is made in response to the examiner's final office action dated January 19, 2005. Applicant has attempted to fully address all of the examiner's remaining concerns, and respectfully requests that the examiner accept this amendment after the final office action as sufficient to put the application in condition for allowance.

The examiner's comments have been carefully considered, and are addressed in turn in the following paragraphs.

### Objection to Disclosure under 37 CFR 1.163

The specification has been objected to as failing to provide a full and complete disclosure of the plant and its distinguishing characteristics. By the foregoing amendment, Applicant has provided additional information to more fully describe the claimed plant, and to more clearly distinguish it from other known cultivars. No new matter is added by these amendments. The following paragraphs correspond with the examiner's specific comments.

A. Comparison to Parents: The claimed variety is the result of a complex cross between [(KIANG-SI x INDEPENDENCE) x SUMMERGRAND] x MARSUN. The specification has been amended to briefly describe how the claimed plant differs from its parents. Because the female parent was itself a complex cross, no comparisons were made between the claimed variety and 'Kiang-Si,' 'Independence,' or Summergrand.'

B. Stipules: Additional description of the stipules is not presently available.

Therefore, the specification has not been amended in this regard.

C. Glands: Additional description of the glands is not presently available.

Therefore, the specification has not been amended in this regard.

D. Pit cavity: The specification has been amended to provide additional botanical information regarding the pit cavity, as requested by the examiner.

E. Parent Varieties: See Paragraph A, above.

F. Stamen: The specification has been amended to correct the spelling error at page 5, line 3, as requested by the examiner.

G. Anthocyanin coloration: The specification has been amended to provide clarifying botanical description regarding the anthocyanin coloration of the fruit, as requested by the examiner.

#### Claim Rejection under 35 U.S.C. §112

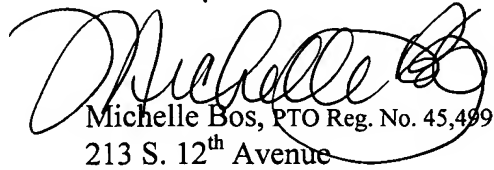
By the foregoing amendment, Applicant has provided the botanical information specifically requested by the examiner to describe the claimed variety. Applicant believes that the rejection under 35 U.S.C. §112 has been overcome.

## CONCLUSION

In light of the foregoing amendment and remarks, applicant believes that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully Submitted,

STRATTON BALLEW PLLC

A handwritten signature in black ink, appearing to read "Michelle Bos", is written over the printed name and address.

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